

Cristina Perez Hesano (#027023)
PEREZ LAW GROUP, PLLC
7508 N. 59th Avenue
Glendale, Arizona 85301
Phone: (602) 730-7100
Fax: (602) 794-6956
cperez@perezlawgroup.com

(Additional Counsel listed below)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Linda Hulewat, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

Medical Management Resource Group
LLC, dba American Vision Partners,

Defendant.

Case No.: 2:24-cv-377-PHX-SMM

Date Filed: February 23, 2024

**PLAINTIFFS' UNOPPOSED
MOTION TO CONSOLIDATE**

Marie Montoya, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

Medical Management Resource Group
LLC, dba American Vision Partners,

Defendant.

Case No.: 2:24-cv-382-PHX-DWL

Date Filed: February 23, 2024

1 2 3 4 5 6 7	Apex Law, individually and on behalf of all others similarly situated, Plaintiff, v. Medical Management Resource Group LLC, dba American Vision Partners, Defendant.	Case No.: 2:24-cv-394-PHX-DWL Date Filed: February 27, 2024
8 9 10 11 12 13 14 15	Lakshminarasimha Moudgal, Rob Ahrens Dorf, and Annette Morgel, individually and on behalf of all others similarly situated, Plaintiff, v. Medical Management Resource Group LLC, dba American Vision Partners, Defendant.	Case No.: 2:24-cv-401-PHX-DTL Date Filed: February 27, 2024 Amended Complaint Filed: March 7, 2024
16 17 18 19 20 21 22 23	David Baehr, Marilyn Zajacka, individually and on behalf of all others similarly situated, Plaintiffs, v. Medical Management Resource Group LLC, dba American Vision Partners, Defendant.	Case No.: 2:24-cv-404-PHX-JZB Date Filed: February 27, 2024

1 2 3 4 5 6 7	Lynda Israel, individually and on behalf of all others similarly situated, Plaintiff, v. Medical Management Resource Group LLC, dba American Vision Partners, Defendant.	Case No.: 2:24-cv-405-PHX-CDB Date Filed: February 27, 2024
8 9 10 11 12 13 14	Candia Franklin, individually and on behalf of all others similarly situated, Plaintiff, v. Medical Management Resource Group LLC, dba American Vision Partners, Defendant.	Case No.: 2:24-cv-408-PHX-DJH Date Filed: February 27, 2024
15 16 17 18 19 20 21	Raiza Ribeiro, individually and on behalf of all others similarly situated, Plaintiff, v. Medical Management Resource Group LLC, dba American Vision Partners, Defendant.	Case No.: 2:24-cv-410-PHX-DMF Date Filed: February 27, 2024

1 2 3 4 5 6 7	David Yaeger, individually and on behalf of all others similarly situated, Plaintiff, v. Medical Management Resource Group LLC, dba American Vision Partners, Defendant.	Case No.: 2:24-cv-414-PHX-JZB Date Filed: February 28, 2024
8 9 10 11 12 13 14	Steven Daley, individually and on behalf of all others similarly situated, Plaintiff, v. Medical Management Resource Group LLC, dba American Vision Partners, Defendant.	Case No.: 2:24-cv-415-PHX-SMB Date Filed: February 28, 2024
15 16 17 18 19 20 21	Charles Peterson, individually and on behalf of all others similarly situated, Plaintiff, v. Medical Management Resource Group LLC, dba American Vision Partners, Defendant.	Case No.: 2:24-cv-442-PHX-JFM Date Filed: March 1, 2024

1 2 3 4 5 6 7	William Castona, individually and on behalf of all others similarly situated, Plaintiff, v. Medical Management Resource Group LLC, dba American Vision Partners, Defendant.	Case No.: 2:24-cv-459-PHX-SPL Date Filed: March 4, 2024
8 9 10 11 12 13 14	Ralph Gallegos, individually and on behalf of all others similarly situated, Plaintiff, v. Medical Management Resource Group LLC, dba American Vision Partners, Defendant.	Case No.: 2:24-cv-463-PHX-DJH Date Filed: March 5, 2024
15 16 17 18 19 20 21	Brenda Moreno-Decerra, individually and on behalf of all others similarly situated, Plaintiff, v. Medical Management Resource Group LLC, dba American Vision Partners, Defendant.	Case No.: 2:24-cv-465-PHX-SMM Date Filed: March 5, 2024

Karen Foti Williams, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

Medical Management Resource Group
LLC, dba American Vision Partners,

Defendant.

Case No.: 2:24-cv-472-PHX-CDB

Date Filed: March 6, 2024

Pursuant to Federal Rule of Procedure 42, Plaintiff Linda Hulewat (the “Moving Plaintiff”), and the Plaintiffs in fourteen related cases, *Montoya v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-382 (“*Montoya*”), *Law v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-394 (“*Law*”), *Moudgal et al. v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-401 (“*Moudgal*”), *Baehr et al. v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-404 (“*Baehr*”), *Israel v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-404 (“*Israel*”) *Franklin v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-408 (“*Franklin*”), *Ribeiro v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-410 (“*Ribeiro*”), *Yaeger v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-414 (“*Yaeger*”), *Daley v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.:

2:24-cv-415 (“Daley”), *Peterson v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-442 (“Peterson”), *Castona v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-459 (“Castona”), *Gallegos v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-463 (“Gallegos”), *Moreno-Decerra v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-465 (“Morena-Decerra”), *Williams v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-472 (“Williams”) with common questions of facts and law that are currently pending before this Court (collectively, the “Related Actions”), respectfully request that the Court consolidate the *Montoya, Law, Moudgal, Baehr, Israel, Franklin, Ribeiro, Yaeger, Daley, Peterson, Castona, Gallegos, Morena-Decerra*, and *Williams* actions into the first-filed action, *Hulewat v. Medical Management Resource Group LLC, dba American Vision Partners*, Case No.: 2:24-cv-377 (“Hulewat”) (together these actions are referred to as the “Related Actions”).

I. PROCEDURAL BACKGROUND

On February 23, 2024, the Moving Plaintiff filed a class action complaint against Medical Management Resource Group LLC, dba American Vision Partners (“American Vision”) alleging various claims arising from a data breach that occurred on American Vision’s systems and was discovered on November 14, 2023 (the “Data Breach”). *Hulewat*, Doc. 1, ¶ 6. Later that same day, on February 23, Plaintiff Montoya filed a class action

1 complaint against American Vision arising from the same Data Breach and alleging similar
2 claims as the *Hulewat* suit. *Montoya*, Doc. 1. Between February 27 and March 6, 2024,
3 thirteen additional cases were filed (*Law*, *Moudgal*, *Baehr*, *Israel*, *Franklin*, *Ribeiro*
4 *Yaeger*, *Daley*, *Peterson*, *Castona*, *Gallegos*, *Moreno-Decerra*, and *Williams*).

6 Plaintiff's counsel has conferred with counsel for Defendant, who confirmed that
7 Defendant does not oppose the relief sought in this motion. A proposed order is submitted
8 for the Court's consideration.

9 II. LEGAL STANDARD

10
11 Consolidation of actions in federal court is governed by Rule 42(a) of the Federal
12 Rules of Civil Procedure, which provides:

13 If actions before the court involve a common question of law or fact, the
14 court may: (1) join for hearing or trial any or all matters at issue in the actions;
15 (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary
16 cost or delay.

17 Additionally, L.R. Civ. 42.1 provides that motions for consolidation may be filed in the
18 lowest numbered action.

19 The Court has "broad discretion" to determine whether to consolidate cases in this
20 district and must weigh the saving of time and effort consolidation would produce against
21 any inconvenience, delay, or expense that it would cause." *Caron v. Caesars Ent. Corp.*,
22 No. CV-19-05922-PHX-MTL, 2020 WL 1323105, at *2 (D. Ariz. Mar. 20, 2020) (citations
23 omitted).
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1 **III. THE RELATED ACTIONS MAKE COMMON LEGAL AND FACTUAL**
2 **ALLEGATIONS**

3 Each of the Related Actions arise from the same Data Breach and advance the same
4 or similar theories of liability, among other various claims, including the following causes
5 of action: (i) negligence, (ii) negligence *per se*, (iii) breach of implied contract; (iv)
6 violation of the Arizona Consumer Fraud Act, (v) invasion of privacy, (vi) unjust
7 enrichment; and (vii) declaratory and injunctive relief. Moreover, each Related Action
8 seeks Class Action certification. To the extent the Court permits consolidation, Plaintiffs
9 will work together to submit one consolidated class action complaint on behalf of the
10 Plaintiffs and the putative Class.
11

12 **IV. THE RELATED ACTIONS SHOULD BE CONSOLIDATED TO**
13 **REDUCE COSTS AND DELAY**

14 Here, each case is in its infancy. Plaintiffs in the Related Actions agree that
15 consolidation of their claims into one action for both pre-trial proceedings and trial is not
16 only appropriate, but necessary to avoid duplicative efforts and potentially conflicting
17 rulings. To allow these cases to proceed as separate matters would waste judicial resources
18 as the cases are currently pending before multiple different judges.
19

20 Indeed, if not consolidated, the separate Related Actions would result in virtually
21 identical discovery requests, duplicative motions practice, and would cause an unnecessary
22 drain on judicial resources. To be sure, data breach cases are routinely consolidated in
23 federal courts around the country. As explained in *Kaplan v. 21st Century Oncology*
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1 *Holdings, Inc.*, where the court granted a motion to consolidate various class complaints in
2 a cyberattack and data breach case:

3
4 Applying the relevant factors from *Hendrix*, the Undersigned first finds that
5 there is a substantial threat of inconsistent adjudications of common factual
6 and legal issues if the cases are allowed to proceed separately. As stated
7 above, all of the cases are pled as class actions and all of the cases allege a
negligence claim. The majority of the cases share other substantive claims as
well....

8
9 Second, the Undersigned finds that the burden on parties, witnesses, and
10 available judicial resources will be substantially lessened by consolidation.
11 *Id.* On this point, the Court notes that all of the named Defendants in the
12 thirteen related cases are represented by the same counsel of record and none
13 of the Defendants have objected to consolidation for pretrial purposes.
14 Further, no named Plaintiffs in any of the cases have objected to
consolidation for pretrial purposes. Moreover, the Undersigned finds that
judicial resources will be substantially conserved by administering one
consolidated case for pretrial purposes rather than proceeding with thirteen
separate cases.

15
16 Third, the length of time required to conclude a consolidated lawsuit instead
of multiple suits is likely to be significantly lessened and, therefore, weighs
in favor of consolidation.

17
18 Finally, the relative expense to all parties concerned—particularly with
19 regard to discovery—is highly likely to be lessened by litigating in one
consolidated case rather than litigating in thirteen separate cases.

20
21 Accordingly, consolidation of these cases not only serves to satisfy the
22 standards set forth in Fed. R. Civ. P. 42(a), Local Rule 1.04(c), and *Hendrix*,
but also to “secure the just, speedy, and inexpensive determination” of these
proceedings.

23 *Kaplan v. 21st Century Oncology Holdings, Inc.*, No. 2:16-cv-210, 2016 WL 9383330, at
24 *2-3 (M.D. Fla. July 21, 2016), report and recommendation adopted, No. 2:16-cv-210,
25 2016 WL 4204781 (M.D. Fla. Aug. 10, 2016); *see also Griffey v. Magellan Health Inc.*,

No. CV-20-01282-PHX-MTL, 2020 WL 5981904, at *2 (D. Ariz. Oct. 8, 2020) (consolidating data breach cases).

Consolidation and reassignment will streamline the fifteen Related Actions, promoting judicial economy and efficiency. Moreover, consolidation imposes no prejudice on Defendant as it will allow for a coordinated process for responding to and litigating each of the related matters.

V. FUTURE-FILED RELATED CASES SHOULD BE CONSOLIDATED

To ensure continued judicial efficiency, Plaintiffs respectfully request that the Court order any future actions that are filed or transferred to this Court based on the same or similar facts and circumstances be consolidated in a master action: *In re American Vision Partners Data Breach Litig.*, Case No.: 2:24-cv-00377. *See, e.g., In re Life Partners Holdings, Inc.*, No. DR-11-CV-43-AM, 2012 WL 12875942, at *1 (W.D. Tex. May 9, 2012) (“future cases ‘arising out of the same or substantially the same transactions or events as the above captioned cases’ shall be united into the consolidated case.”).

VI. CASE SCHEDULE

Plaintiffs propose that any attorney who has filed an action in this litigation may file a combined motion and brief in support of appointment as Interim Class Counsel either individually or as part of a proposed leadership structure. All motions must be filed in the Consolidated Action, no later than 5 p.m. Mountain Time, fourteen (14) calendar days from the date of entry of an order consolidating the Related Actions. Each leadership application

1 shall not exceed ten (10) pages and may include a resume no longer than three (3) pages.
2 There will be no response briefs permitted. The Court may hold a hearing on the
3 applications or appoint interim counsel based on timely written submissions only.
4

5 Plaintiffs also propose that Defendant's deadline to respond to the complaints in
6 each of the above-captioned cases is stayed pending the filing of a single Consolidated
7 Complaint.
8

9 **VII. CONCLUSION**

10 Accordingly, the Moving Plaintiff requests that the Court enter an order
11 consolidating the Related Actions in the first-filed case: *Hulewat*, under the master case
12 caption *In re American Vision Partners Data Breach Litig.*, Case No.: 2:24-cv-00377,
13 order that all future filed related actions filed in or transferred to this district be consolidated
14 in this master case as well, and order that applications for appointment of Interim Class
15 Counsel be filed within fourteen (14) days of an order on this motion for consolidation.
16

17 Dated: March 14, 2024.

18 Respectfully Submitted,

19 /s/ Cristina Perez Hesano
20 Cristina Perez Hesano (#027023)
21 cperez@perezlawgroup.com
22 **PEREZ LAW GROUP, PLLC**
23 7508 N. 59th Avenue
24 Glendale, AZ 85301
25 Telephone: (602) 730-7100
26 Fax: (623) 235-6173
27
28

1 Gary M. Klinger (*Pro Hac Vice granted*)
2 MILBERG COLEMAN BRYSON PHILLIPS
3 GROSSMAN LLC
4 227 W. Monroe Street, Suite 2100
5 Chicago, IL 60606
6 Phone: (866) 252-0878

7 *Counsel for Plaintiff Hulewat*

8 Samuel J. Strauss (*Pro Hac Vice granted*)
9 Raina Borrelli (*Pro Hac Vice granted*)
10 **TURKE & STRAUSS LLP**
11 613 Williamson Street, Suite 201
12 Madison, Wisconsin 53703
13 Telephone: (608) 237-1775
14 Facsimile: (608) 509-4423
15 sam@turkestrauss.com
16 raina@turkestrauss.com

17 *Counsel for Plaintiff Montoya*

18 Laura Van Note, Esq. (C.A. S.B. #310160)*
19 **COLE & VAN NOTE**
20 555 12th Street, Suite 2100
21 Oakland, California 94607
22 Telephone: (510) 891-9800
23 Facsimile: (510) 891-7030
24 Email: lvn@colevannote.com

25 *Counsel for Plaintiff Law*

26 Terence R. Coates (*Pro Hac Vice granted*)
27 Jonathan T. Deters (*Pro Hac Vice granted*)
28 **MARKOVITS, STOCK & DEMARCO, LLC**
119 E. Court Street, Suite 530
Cincinnati, OH 45202
Telephone: 513.651.3700
Fax: 513.665.0219
tcoates@msdlegal.com
jdeters@msdlegal.com

Counsel for Plaintiff Moudgal

Elaine A. Ryan (AZ Bar #012870)
AUER RYAN, P.C.
20987 N. John Wayne Parkway, #B104-374
Maricopa, AZ 85139
Telephone: (520) 7005-7332
eryan@auer-ryan.com

Norman E. Siegel*
J. Austin Moore*
Stefon J. David*
STUEVE SIEGEL HANSON LLP
460 Nichols Road, Suite 200
Kansas City, Missouri 64112
Telephone: (816) 714-7100
siegel@stuevesiegel.com
moore@stuevesiegel.com
david@stuevesiegel.com

Counsel for Plaintiffs Baehr and Zajacka

Daniel O. Herrera*
Nickolas J. Hagman*
**CAFFERTY CLOBES MERIWETHER
& SPRENGEL LLP**
135 S. LaSalle, Suite 3210
Chicago, Illinois 60603
Telephone: (312) 782-4880
Facsimile: (312) 782-4485
dherrera@caffertyclobes.com
nhagman@caffertyclobes.com

Counsel for Plaintiff Israel

1 Ben Barnow (*Pro Hac Vice granted*)
2 b.barnow@barnowlaw.com
3 Anthony L. Parkhill (*Pro Hac Vice granted*)
4 aparkhill@barnowlaw.com
5 **BARNOW AND ASSOCIATES, P.C.**
6 205 W. Randolph Street, Suite 1630
7 Chicago, IL 60606
8 Tel: 312-621-2000

9 *Counsel for Plaintiff Franklin*

10 Andrew J. Shamis, Esq.
11 ashamis@shamisgentile.com
12 14 NE 1st Ave., Suite 705
13 Miami, Florida 33132
14 Tel: (305) 479-2299

15 *Counsel for Plaintiff Ribeiro*

16 Kenneth J. Grunfeld*
17 **KOPELOWITZ OSTROW FERGUSON**
18 **WEISELBERG GILBERT**
19 65 Overhill Road
20 Bala Cynwyd, PA 19004
21 Tel: (954) 525-4100
22 grunfeld@kolawyers.com

23 *Counsel for Plaintiff Yaeger*

24 Bryan L. Bleichner*
25 Philip J. Krzeski*
26 **CHESTNUT CAMBRONNE PA**
27 100 Washington Avenue South, Suite 1700
28 Minneapolis, MN 55401
Phone: (612) 339-7300
Fax: (612) 336-2940
bbleichner@chestnutcambronne.com
pkzeski@chestnutcambronne.com

Counsel for Plaintiff Daley

1 Elaine A. Ryan (AZ Bar No. 012870)
2 Colleen M. Auer (AZ Bar No. 014637)
3 **AUER RYAN, P.C.**
4 20987 N. John Wayne Parkway, #B104-374
5 Maricopa, AZ 85139
6 (520) 705-7332
7 eryl@auer-ryan.com
8 cauer@auer-ryan.com

9 Jean S. Martin*
10 North Carolina Bar No. 25703
11 Francesca K. Burne*
12 Florida Bar No. 1021991
13 **MORGAN & MORGAN COMPLEX**
14 **LITIGATION GROUP**
15 201 N. Franklin Street, 7th Floor
16 Tampa, FL 33602
17 Telephone: (813) 559-4908
18 Facsimile: (813) 222-4795
19 jeanmartin@forthepeople.com
20 fburne@forthepeople.com

Counsel for Plaintiff Peterson

21 Hart L. Robinovitch (AZ #020910)
22 **ZIMMERMAN REED LLP**
23 14648 N. Scottsdale Road, Suite 130
24 Scottsdale, AZ 85254
25 Telephone: (480) 348-6400
26 Facsimile: (480) 348-6415
27 hart.robinovitch@zimmreed.com

28 Brian C. Gudmundson*
ZIMMERMAN REED LLP
1100 IDS Center, 80 South 8th Street
Minneapolis, MN 55402
Telephone: (612) 341-0400
Facsimile: (612) 341-0844
brian.gudmundson@zimmreed.com
James J. Pizzirusso*

HAUSFELD LLP

888 16th Street, N.W., Suite 300
Washington, D.C. 20006
Telephone: (202) 540-7200
Facsimile: (202) 540-7201
jpizzirusso@hausfeld.com

Steven M. Nathan*

HAUSFELD LLP

33 Whitehall Street, Fourteenth Floor
New York, NY 10004
Telephone: (646) 357-1100
Facsimile: (212) 202-4322
snathan@hausfeld.com

Counsel for Plaintiff Castona

Mark S. Reich*

LEVI & KORSINSKY, LLP

33 Whitehall Street, 17th Floor
New York, NY 10004
Telephone: (212) 363-7500
Facsimile: (212) 363-7171
Email: mreich@zlk.com

Counsel for Plaintiff Gallegos

BENDAU & BENDAU PLLC

Clifford P. Bendau, II (AZ Bar No. 030204)
Christopher J. Bendau (AZ Bar No. 032981)
P.O. Box 97066
Phoenix, Arizona 85060
Telephone: (480) 382-5176
Fax: (480) 304-3805
Email: cliffordbendau@bendaulaw.com
chris@bendaulaw.com

LYNCH CARPENTER, LLP

Gary F. Lynch *
1133 Penn Avenue, 5th Floor
Pittsburgh, PA 15222
Tel.: (412) 322-9243
gary@lcllp.com

Counsel for Plaintiff Moreno-Decerra

Hart L. Robinovitch (AZ #020910)
hart.robinovitch@zimmreed.com
ZIMMERMAN REED LLP
14648 North Scottsdale Road, Suite 130
Scottsdale, AZ 85254
Telephone: (480) 348-6400

Brian C. Gudmundson*
brian.gudmundson@zimmreed.com
ZIMMERMAN REED LLP
1100 IDS Center
80 South 8th Street
Minneapolis, MN 55402
Telephone: (612) 341-0400
Facsimile: (612) 341-0844

Kim D. Stephens, P.S.*
Cecily C. Jordan*
kstephens@tousley.com
cjordan@tousley.com
TOUSLEY BRAIN STEPHENS PLLC
1200 Fifth Avenue, Suite 1700
Seattle, WA 98101
Telephone: 206-682-5600
Facsimile: 206-682-2992

Counsel for Plaintiff Williams

** pro hac vice forthcoming*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of March, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail notice list.

/s/ Cristina Perez Hesano
Cristina Perez Hesano (#027023)